

Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
June 10, 2003 (9:00 a.m.)

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Michael D. Redifer, Board Member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application
RF=Recovery Fund Claim
Trades=Tradesmen Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
W=Witness
Atty = Attorney

Participants

1. Daniel Smith
File Number 2003-01728 (Lic)
No decision was made.

Smith – A

2. Steve A. Holsapple
t/a Construction Unlimited
File Number 2003-00112 (Disc)

Holsapple – R
Sonja Bourne – C
Sheri Hanks - W

3. Designline Remodelers Inc.
File Number 2002-03058 (Disc)
No decision was made.

William Booze – R
Robert Wise – R's atty
Shelley Elder - W
Matthew Kite W
David Stowers - W
Karen Emroch-C
Michael Harman – C-s atty

3. Larry Holmes Jr.
t/a Pro Siding Co.
File Number 2002-02951 (Disc)

Carolyn Christian - C
Crystal Harris – W

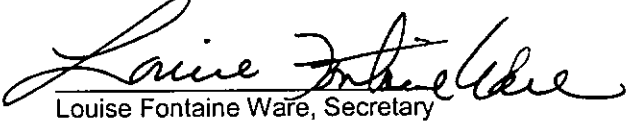
- | | |
|--|---|
| 4. Bache G. Parks Jr.
t/a Parks Building Etc.
File Number 2002-02520 (Disc) | Parks – R
Jon Paulson – R Atty
Christian Parks - W
Wesley Edwards – C
Teresa Edwards - C |
| 5. Metro Contracting Inc.
File Number 2003-03210 (Lic) | Stephanie Denny – A
Maurice Field - W |
| 6. Leon A. Hundley III
t/a Home Improvement
File Number 2003-00036 (Disc) | Arthur & Ann Everett - C |
| 7. Leon A. Hundley III
t/a Home Improvement
File Number 2003-00513 (Disc) | Garland Gordon - C |
| 8. Samuel Crumpacker
t/a Crumpacker Construction
File Number 2002-00800 (Disc)
No decision was made. | None |
| 9. Samuel Crumpacker
t/a Crumpacker Construction
File Number 2001-02279 (Disc)
No decision was made. | None |
| 10. Sundecks of Richmond Inc.
File Number 2002-03571 (Disc) | Jim Davidson – R
Paul Buckwalter – R Atty
Michael Lamm – W
Herta Korb - C
Sonja Korb - W |
| 11. Hand Construction Inc.
File Number 2003-00025 (Disc)
No decision was made. | John Hetrick – R
Gary Nuckols – R Atty
Chris Haines - W
Clyde Massey-W
William Russell - W
Robert Morrison – C
Barbara Morrison - C |

The meeting adjourned at 7:15 p.m.

BOARD FOR CONTRACTORS



Mark D. Kinser, Chairman



Louise Fontaine Ware, Secretary

6
.

COPY TESTE:

Custodian of Records

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

BOARD FOR CONTRACTORS

RE: STEVE A. HOLSAPPLE
T/A CONSTRUCTION UNLIMITED
LICENSE NUMBER 2705-036319

FILE NUMBER: 2003-00112

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 10, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Steve A. Holsapple, t/a Construction Unlimited (Holsapple) on May 9, 2003. The following individuals participated at the conference: Steve A. Holsapple, Respondent; Sonja B. Bourne, Complainant, Sheri B. Hanks, Witness; Jennifer Kazzie, Staff Member; and Michael D. Redifer, presiding Board Member.

Background

On or about October 3, 2001, Sonja B. and Charles W. Bourne, Jr. (the Bournes) entered into a contract with "Charlottesville Construction Unlimited," in the amount of \$28,700.00, for home improvements at 2793 Milton Road, Charlottesville, Virginia.

The Bournes paid "Charlottesville Construction Unlimited" \$14,350.00 by check on October 3, 2001, \$7,545.00 on October 11, 2001, \$4,545.00 on October 26, 2001, \$2,000.00 on November 8, 2001, and \$951.50 on December 21, 2001.

Summation of Facts

1. The Board for Contractors issued Class A Contractor's license number 2705036319 to Steve A. Holsapple (Holsapple), t/a Construction Unlimited, a sole proprietorship on November 25, 1996.
2. On May 5, 1998, Charlottesville Construction Unlimited Inc. became incorporated with the Virginia State Corporation Commission.
3. The licensing records of the Board for Contractors on July 11, 2002, revealed no change in the status of the business entity for license number 2705036319.
4. In a letter dated August 15, 2002, Holsapple referred to his business as "Charlottesville Construction Unlimited, Inc."
5. On October 4, 2002, Holsapple told Investigator E. Nathan Matthews (the Board's Agent) that Holsapple changed Construction Unlimited from a sole proprietorship to a corporation in the name of "Charlottesville Construction Unlimited, Inc."
6. On October 11, 2002, the Virginia State Corporation Commission records revealed Charlottesville Construction Unlimited, Inc. was an active corporate entity.
7. On or about December 10, 2002, Holsapple told the Board's Agent that he decided not to change his license from a sole proprietor to a corporate entity because of tax issues. Holsapple also told the Board's Agent that he wrote the name "Charlottesville Construction Unlimited" on the top of the Bournes' copy of the contract.
8. The contract used by Holsapple in the transaction failed to contain all the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights of the parties, and (h) contractor's license number, expiration date, class and classifications or specialty services.

9. On or about August 2, 2002, Jay Schlothauer ("Schlothauer"), County of Albemarle Building Official, advised the Board's Agent that a building permit was required for construction of the porch addition. Schlothauer also advised the Board's Agent that Holsapple failed to obtain the required permit, in violation of Section 109.1 of the 2000 Virginia Uniform Statewide Building Code.

10. On August 5, 2002, a field inspector for the County of Albemarle inspected the Bournes' house and noted the porch addition was constructed with new lights and some electrical work was performed in the kitchen.

11. On or about August 15, 2002, the County of Albemarle issued building permit number 2002-1487AR for the work performed at the Bournes' house. The permit indicated Construction Unlimited was the contractor.

12. During the IFF, evidence was presented which verified that on November 4, 2002, the County of Albemarle issued an electrical permit to Bobby Minter for the electrical work.

13. During the IFF, evidence was presented which verified that final inspections for the building and electrical were performed and approved by the County of Albemarle Inspections Department on December 17, 2002.

14. The contract specified a total price of \$28,700.00 for the Bournes project. By December 21, 2001, the Bournes paid "Charlottesville Construction Unlimited" a total of \$29,391.50 for work performed by Holsapple.

15. During the investigation, Holsapple told the Board's Agent that his company, Construction Unlimited, performed additional work at the Bournes' house without a written change order signed by the Bournes. Holsapple admitted to changing the existing walkway from concrete to aggregate concrete for an additional \$400.00 and adding molding around the ceiling in the dining room for an additional \$340.00.

Formatted: Font: Italic, Underline

16. The contract specified Holsapple would install a new light over the sink and receptacle (sic) behind the stove.

17. In addition, during the investigation, Holsapple told the Board's Agent that his company, Construction Unlimited, performed electrical work at the Bournes' house. Holsapple told the Board's Agent the electrical work included installing an overhead light in the porch addition, installing a new receptacle behind the kitchen stove, and changing a light fixture over the sink from a fluorescent fixture to a candescent fixture.

18. The licensing records of the Board for Contractors on July 11, 2002, revealed Holsapple was issued Class A Contractor's license with the HVAC contractors ("HVA"), plumbing contractors ("PLB"), and building contractors ("BLD") classifications and the gas fitting contracting ("GFC") specialty.

19. During the IFF, Mrs. Bourne testified that the job was complete.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-210 (Effective May 1, 1999)

Holsapple's failure to obtain a new license when he changed from a sole proprietorship to a corporation is a violation of Board Regulation 18 VAC 50-22-210 (Effective May 1, 1999). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend that Holsapple successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 2: 18 VAC 50-22-230(A) (Effective September 1, 2001)

Holsapple's failure to notify the Board of a change of name, in writing, within 30 days of the change, is a violation of Board Regulation 18 VAC 50-22-230(A) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend that Holsapple successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 3: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Holsapple's failure to make use of a legible written contract that contains all provisions specified in the Regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend that Holsapple successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 4: 18 VAC 50-22-260(B)(6) (Effective September 1, 2001)

Holsapple's failure to obtain the required building permit prior to performing work is a violation of Board Regulation 18 VAC 50-22-260(B)(6) (Effective September 1, 2001). I recommend a monetary penalty of \$1,500.00 be imposed for the violation of the regulation.

Count 5: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

Holsapple's failure to obtain written change orders signed by both the consumer and the licensee or his agent, is a violation of Board Regulation 18 VAC 50-22-260(B)(31) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend that Holsapple successfully complete the Board's Basic Contractor Licensing Class (remedial education) within six months of the entry of the order.

Count 6: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

Holsapple's actions of practicing in a classification for which he is not licensed is a violation of Board Regulation 18 VAC 50-22-260(B)(27) (Effective September 1, 2001). I recommend a monetary penalty of \$1,200.00 be imposed for the violation of the regulation.

By:

Michael D. Redifer
Presiding IFF Board Member
Board for Contractors

Date: June 10, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-036319 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: LARRY R. HOLMES, JR.
T/A PRO SIDING CO.
LICENSE NUMBER 2705-005764**

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 10, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Larry R. Holmes, Jr., t/a Pro Siding Co. (Holmes) on May 9, 2003. The following individuals participated at the conference: Carolyn Christian, Complainant; Crystal Harris, Witness; Jennifer Kazzie, Staff Member; and Michael D. Redifer, presiding Board Member. Neither Holmes, nor anyone on his behalf, appeared at the IFF.

Summation of Facts

1. On or about December 12, 2000, Mr. and Mrs. Joseph V. Christian (the Christians) entered into a construction contract with Larry R. Holmes, Jr., t/a Pro Siding Co., in the amount of \$17,500.00 for improvements to a house at 12501 John Tyler Memorial Hwy., Charles City, Virginia.
2. The contract specified the following work:
 - Add 3' x 7' floor area to rear closet with 35' of shelving, 4 florescent lights, vinyl floor covering and paint walls and trim.
 - Add 4' x 7' area to rear porch with vinyl floor covering, paint walls and trim, and install plumbing for washer and hook-up for dryer.
 - Install one slider and one 2 ft 8 inch x 6 ft 8 inch half lite exterior metal door and install one storm door.
 - Repair falling foundation block.
 - Cover all weatherboards areas with Amocor Xp-14 installation, and install Alcoa mastic Barkwood vinyl siding.
 - Install 1 x 6 fascia boards.
 - Cover all exterior wood trim with Alcoa aluminum.
 - Install Alcoa vinyl shutters and aluminum seamless gutters.
 - Install Earthwise Thermal replacement windows with 10 double hung and 6 sliders in front.
 - Nail down loose roofing, prep and paint.
 - Install soffit vinyl system.
3. Between February 2001 and July 2001, Holmes nailed some boards on the house, and worked on the footings and foundation of the house. On or about July 2001, Holmes left the job and failed to return to complete the work specified in the contract.
4. On or about October 30, 2001, Karl A. Peter (Peter), an attorney representing the Christians, sent a letter to Holmes concerning the lack of substantial progress on the work specified in the construction contract with the Christians. Peter requested Holmes contact the Christians and advise when Holmes would return.

5. Between December 12, 2000 and March 13, 2001, the Christians paid Holmes payments totaling \$ 5,830.00 as follows:

- \$ 425.00 by check on December 12, 2000.
- \$ 20.00 cash in February of 2001.
- \$ 100.00 cash on February 21, 2001.
- \$ 60.00 cash on March 7, 2001.
- \$150.00 cash on March 8, 2001.
- \$ 5,075.00 by check on March 13, 2001.

6. Holmes failed to return to complete the work specified in the construction contract and refund any money received from the Christians for work not performed.

7. On or about April 25, 2002, Sally M. Holmes, Code Compliance Specialist, County of Charles City, advised that Holmes failed to obtain a required permit and violated section 121.1 of the Uniform Statewide Building Code.

8. On July 17, 2002, Sally M. Holmes told Investigator E. Nathan Matthews (the Board's Agent) that the following work required a building permit:

- Add 3' x 7' floor area to rear closet with 35' of shelving, 4 florescent lights.
- Add 4' x 7' area to rear porch and install plumbing for washer and hook-up for dryer.
- Install one slider and one 2ft 8 in x 6ft 8 in half lite exterior metal door and install one storm door.
- Repair falling foundation block

9. On or about April 8, 2002, the Board's Agent made a written request by regular mail to Larry R. Holmes Jr. (Holmes), t/a Pro Siding Co, at the license address of P. O. Box 243, Highland Springs, Virginia 23075, requesting a written response by April 19, 2002 to the complaint filed with the Board. Holmes failed to respond to the request by the Board's Agent.

10. On May 6, 2002, the Board's Agent made a written request by Certified Mail to Holmes at the license address of P. O. Box 243, Highland Springs, Virginia 23075, requesting Holmes call the Board's Agent's 24-hour voice mail number and arrange an interview appointment to discuss the complaint filed with the Board. On or about June 11, 2002, the certified letter was returned to the Department of Professional and Occupational Regulation by the Postal Service marked "Unclaimed".

11. On May 17, 2002 and July 17, 2002, the Board's Agent attempted to contact Holmes by telephone at (804) 737-5548, the telephone number listed on the contract and in the Verizon White Page Directory for December 2001. When this number was dialed, a recording answers stating that the telephone number was disconnected.

12. On or about May 30, 2002, the Board's Agent hand-delivered a letter, containing a copy of the complaint filed with the Board, to the physical address listed on Holmes' license record, 121 Barker Street, Highland Springs, Virginia 23223, requesting Holmes call the Board's Agent's 24-hour voice mail number to schedule an interview to discuss the complaint. As of July 18, 2002, Holmes failed to respond to the request by the Board's Agent.

13. The Board's Agent also sent a copy of the letter dated May 30, 2002, to the secondary address on Holmes' license record of P. O. Box 243, Highland Springs, Virginia 23075. As of June 27, 2002, the Board's Agent did not receive any voice mail messages from Holmes. On or about June 7, 2002, the United States Postal Service returned the letter marked "Box Closed No Order".

14. During the IFF, Mrs. Christian testified that the condition of her property has not changed since the date of the complaint.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Holmes' failure to return to complete the work specified in the construction contract is a violation of Board Regulation 18 VAC 50-22-260(B)(12) (Effective May 1, 1999). I recommend a monetary penalty of \$1,500.00 and license revocation be imposed for the violation of the regulation.

Count 2: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999)

Holmes' failure to refund any money received for work not performed is a violation of the retention of funds provision of Board Regulation 18 VAC 50-22-260(B)(12) (Effective May 1, 1999). I recommend a monetary penalty of \$2,500.00 and license revocation be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(21) (Effective May 1, 1999)

Holmes' failure to obtain a required building permit is a violation of Board Regulation 18 VAC 50-22-260(B)(21) (Effective May 1, 1999). I recommend a monetary penalty of \$1,000.00 be imposed for the violation of the regulation.

Count 4: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Holmes' failure to respond to an investigator seeking information in the investigation of a complaint filed with the Board is a violation of Board Regulation 18 VAC 50-22-260(B)(13) (Effective September 1, 2001). I recommend a monetary penalty of \$500.00 be imposed for the violation of the regulation.

By:

Michael D. Redifer
Presiding IFF Board Member
Board for Contractors
Date: June 10, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

RE: BACHE G. PARKS

**T/A PARKS BUILDING ETC.
LICENSE NUMBER 2705-037550**

FILE NUMBER: 2002-02520

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 10, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Bache G. Parks, t/a Parks Building, Etc. (Parks) on March 11, 2003. The following individuals participated at the conference: Bache G. Parks, Respondent; Jon C. Paulson, Esquire, Attorney for Respondent; Christian Parks, Witness; Wesley and Teresa Edwards, Complainants; Jennifer Kazzie, Staff Member; and Michael D. Redifer, presiding Board Member.

Background

On or about February 28, 2000, Wesley Edwards (Edwards) entered into a contract with Bache G. Parks, Jr. t/a Parks Building Etc (Parks) to construct a new home at Lot 7, Scarborough Neck Subdivision, Accomack County, Virginia for the total cost of \$189,500.00. The contract includes a payment schedule, which indicates the percentage of completion of the home and the amounts due at that point in the construction process.

Summation of Facts

1. The contract used by Parks in the transaction failed to contain the minimum provisions required by the Board's 1999 Regulation 18 VAC 50-22-260(B)(8). The contract failed to include subsections (a) when the work is to begin and the estimated completion date, (f) disclosure of cancellation rights, and (h) the contractor's license number, expiration date, class of license/certificate, and classification or specialty services.
2. The licensing records for the Board for Contractors on February 28, 2000, revealed that Parks is licensed as a Class B contractor, license number 2705-37550.
3. Parks entered into a \$189,500.00 contract, which exceeded his Class B license by \$119,500.00. Parks failed to obtain a Class A license in order to perform work in excess of the \$70,000.00 limit of a Class B license.
4. On or about February 28, 2000, Parks started the contracted work at Lot 7, Scarborough Neck Subdivision. Between April 10, 2000 and August 29, 2000, Edwards paid Parks \$138,125.00 as the first four (4) draws described in the contract. The contract identified the following work and materials to be performed and furnished upon payment of the first four (4) draws:

Draws for Completion of:

Amounts Paid to Parks:

A.	Foundation and rough grade	\$37,900.00
B.	Framing, sheathing, windows and exterior doors	\$43,375.00
C.	Roofing and siding	\$28,425.00
D.	Electric, HVAC, plumbing rough-in	\$28,425.00

Total amount received: \$138,125.00

5. During the IFF, Edwards failed to provide sufficient evidence that refunds were due.
6. Edwards paid another contractor \$17,000.00 for the HVAC that was not installed by Parks.
7. On or about January 5, 2000, Parks applied to the Accomack County Department of Building, Planning and Zoning for a Building Permit to construct Edwards' new home at Lot 7, Scarborough Neck Subdivision. On the application for the permit, Parks estimated the total cost to be \$159,500.00. Although the building official's records indicated that Parks has a Class B license, Parks received Building Permit B2000-0057, on or about February 2, 2000. Parks told Kathy Wagner, Permits Clerk, that the record is wrong and that Parks passed the Class A test and he should be listed as a Class A contractor.
8. Wagner issued the permit, based on Parks reputation. Parks offered to bring her a copy of his Class A license to update the records. (Parks failed to return with the copy of his Class A license.)
9. During the IFF, a review of the licensing records of the Board for Contractors revealed that Bache G. Parks, Jr., t/a Parks Building, Etc. was issued a Class A Contractor's license on February 3, 2003. During the IFF, testimony was provided by Christian Parks that Parks passed the Building Technical Exam on October 2001.
10. During the IFF, Parks testified that he told Mrs. Edwards that he would not be able to continue the job until the appropriate change orders had been signed. At this point, another drywall contractor was hired by Mr. Edwards to begin the installation of the wall coverings.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(8) (Effective May 1, 1999)

Parks failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(8) (Effective May 1, 1999). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend that Parks successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the effective date of the order.

Count 2: 18 VAC 50-22-260(B)(1), to wit: Section 54.1-1103 of the Code of Virginia (Effective May 1, 1999)

Parks failure to obtain a Class A license in order to perform work in excess of the \$70,000.00 limit of a Class B license is a violation of Board Regulation 18 VAC 50-22-260(B)(1), to wit: Section 54.1-1103 of the Code of Virginia (Effective May 1, 1999). I recommend a monetary penalty of \$1,500.00 be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999) (abandonment provision)

I recommend that Count 3 be closed with a finding of no violation.

Count 4: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999) (intentional and unjustified failure to complete work contractor for)

I recommend that Count 4 be closed with a finding of no violation.

Count 5: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999) (retention of funds provision)

I recommend that Count 5 be closed with a finding of no violation.

Count 6: 18 VAC 50-22-260(B)(12) (Effective May 1, 1999) (misapplication of funds provision)

I recommend that Count 6 be closed with a finding of no violation.

Count 7: 18 VAC 50-22-260(B)(6) (Effective May 1, 1999)

Parks misconduct for providing false information to the Accomack County Department of Building, Planning and Zoning in order to obtain a permit for a project in excess of his license class is a violation of Board Regulation 18 VAC 50-22-260(B)(6) (Effective May 1, 1999). I recommend a monetary penalty of \$1,000.00 be imposed for the violation of the regulation.

By:

Michael D. Redifer
Presiding IFF Board Member
Board for Contractors
Date: June 10, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-037550 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: STEPHANIE W. DENNY
T/A METRO CONTRACTING, INC.
APPLICATION FOR CLASS A CONTRACTORS LICENSE**

FILE NUMBER: 2003-03210

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 10, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Stephanie W. Denny, t/a Metro Contracting, Inc. (Denny) on June 4, 2003. The following individuals participated at the conference: Stephanie W. Denny; Applicant; Maurice F. Field, Sr. Applicant; Jennifer Kazzie, Staff Member; and Michael D. Redifer, presiding Board Member.

Summation of Facts

1. Denny applied for a Class A Contractor's license on March 21, 2003.
2. In the application, Denny disclosed criminal convictions against Maurice F. Field, Sr. (Field), the proposed Designated Employee and Qualified Individual for Metro Contracting, Inc.
3. On January 17, 1990, in the Hopewell Circuit Court, Field was convicted of Issuing Checks, Drafts or Orders for Payment, a Felony.
4. On January 17, 1990, in the Hopewell Circuit Court, Field was convicted of Larceny Intent Defraud, a Felony.
5. On July 16, 1990, in the Norfolk Circuit Court, Field was convicted of Burglary, a Felony.
6. On September 13, 1990, in the Colonial Heights Circuit Court, Field was convicted of Larceny, a Felony.
7. On September 13, 1990, in the Colonial Heights Circuit Court, Field was convicted of Larceny, a Felony.
8. On September 13, 1990, in the Colonial Heights Circuit Court, Field was convicted of Larceny by Check, a Felony.

9. During the IFF, Denny presented three letters of recommendation for Metro Contracting.
10. In addition, during the IFF, Denny presented experience histories for herself and Maurice Fields.
11. During the IFF, Denny and Field testified that Field has been drug and alcohol free since April 26, 1990. Additionally, testimony was given relating to the sound business practices in which they are now engaged.

Conclusion and Recommendation

Based upon the record and the testimony presented at the IFF, I recommend that Metro Contracting, Inc. be granted a Class A Contractor's license.

By:

Michael D. Redifer
Presiding IFF Board Member
Board for Contractors
Date: June 10, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: LEON A. HUNDLEY, III
T/A HOME IMPROVEMENT
LICENSE NUMBER 2705-066195**

FILE NUMBER: 2003-00036

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 10, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Leon A. Hundley, III, t/a Home Improvement (Hundley) on May 9, 2003. The following individuals participated at the conference: Arthur and Ann Everett, Complainants; Jennifer Kazzie, Staff Member; and Michael D. Redifer, presiding Board Member. Neither Hundley, nor anyone on his behalf, appeared at the IFF.

Background

On or about March 12, 2002, Arthur and Ann Everett (the Everetts) entered into a contract with "Quality First Home Improvement," in the amount of \$14,500.00, to finish the basement of their home at 3143 Southampton Drive, Jeffersonsonton, Virginia. Leon Hundley III signed the contract for "Quality First Home Improvement."

The licensing records of the Board of Contractors on July 3, 2002, revealed Leon A. Hundley III ("Hundley"), t/a Home Improvement, was issued Class C Contractor's license number 2705066195 on November 19, 2001.

Summation of Facts

1. Hundley failed to operate in the name in which the license was issued.
2. The contract used by Hundley in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) a disclosure of the cancellation rights of the parties, and (h) contractor's name, address, license number, expiration date, class of license, and classifications or specialty service.
3. On or about March 27, 2002, the Everetts paid Hundley \$3,500.00 by check, as a deposit for framing, plumbing, and electrical rough-in work. On the same day, Hundley cashed the \$3,500.00 check.
4. The Everetts and Hundley verbally agreed the job would begin on May 13, 2002, but that Hundley would stock the basement with supplies before May 13, 2002.
5. As of May 13, 2002, Hundley failed to stock the basement with supplies and begin the job as agreed upon. On May 13, 2002, the Everetts requested Hundley fully stock the basement by May 14, 2002. As of May 14, 2002, Hundley never showed up.
6. On May 18, 2002, Hundley agreed to sand and paint the exterior trim of the Everetts' home, paint a guest bedroom and bath and paint the master bedroom. On May 20, 2002,

Hundley sent a painter named Jeff to the Everetts' home, who started painting the exterior trim but in a different color. Neither Hundley nor Jeff performed any sanding, completed painting the exterior of the Everetts' home, or started painting any of the rooms inside as verbally agreed upon. As of September 11, 2002, Hundley failed to finish the exterior paint work and to start the interior paint work.

7. In a letter dated August 16, 2002, Hundley stated that the Everetts cancelled the contract on the basement and requested a full refund. Hundley admitted that he did not complete the paint job because, as he told the Everetts, he could not paint the high/steep parts and that he did not agree to paint the interiors rooms as alleged by the Everetts. Hundley also stated that he did not feel obligated to refund the Everetts since they cancelled the contract. Hundley failed to refund the Everetts' \$3,500.00.

8. In addition, in a letter dated August 16, 2002, Hundley admitted he never obtained a signed written change order from the Everetts after the terms of their agreement changed. Hundley stated the agreement to paint was a verbal agreement between him and the Everetts.

9. On September 11, 2002, Investigator Terri Taylor, the Board's Agent, visited the subject property. The Board's Agent photographed the unfinished paint job on the exterior of the home and noted that the exterior work was not finished and the interior work was never started.

10. The licensing records of the Board of Contractors on July 3, 2002, revealed Leon A. Hundley III, t/a Home Improvement, was issued Class C Contractor's license number 2705066195. The licensing records further revealed Hundley was licensed in the following specialties: roofing (ROC), painting and wallcovering (PTC), masonry (BRK), landscape service (LSC), landscape irrigation (ISC), concrete (CEM), asphalt paving and sealcoating (PAV), and home improvement (HIC). Hundley was not licensed with plumbing or electrical specialties.

11. According to the contract, Hundley agreed to perform plumbing and electrical work and the contract in excess of the \$7,500.00 limit of a Class C license.

12. During the IFF, the Everetts testified that Hundley had instructed them to obtain the building permit in their name.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(A) (Effective September 1, 2001)

Hundley's failure to report a name change, in writing, to the Board within thirty days of the change, is a violation of Board Regulation 18 VAC 50-22-230(A) (Effective September 1, 2001). I recommend a monetary penalty of \$500.00 be imposed for the violation of the regulation.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Hundley's failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9) (Effective September 1, 2001). I recommend a monetary penalty of \$150.00 be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Hundley's failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15) (Effective September 1, 2001). I recommend a monetary penalty of \$2,500.00 and license revocation be imposed for the violation of the regulation.

Count 4: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Hundley's failure to refund money received for work not performed is a violation of Board Regulation 18 VAC 50-22-260(B)(16) (Effective September 1, 2001). I recommend a monetary penalty of \$2,500.00 and license revocation be imposed for the violation of the regulation.

Count 5: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

Hundley's failure to obtain written change orders, signed by both the consumer and the licensee or his agent, is a violation of Board Regulation 18 VAC 50-22-260(B)(31) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation.

Count 6: 18 VAC 50-22-260(B)(27) (Effective September 1, 2001)

Hundley's actions of agreeing in the contract to practice in a classification and class of license for which he is not licensed is a violation of Board Regulation VAC 50-22-260(B)(27) (Effective September 1, 2001). I recommend a monetary penalty of \$1,000.00 be imposed for the violation of the regulation.

By:

Michael D. Redifer
Presiding IFF Board Member
Board for Contractors

Date: June 10, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR CONTRACTORS

**RE: LEON A. HUNDLEY, III
T/A HOME IMPROVEMENT
LICENSE NUMBER 2705-066195**

FILE NUMBER: 2003-00513

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 10, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Leon A. Hundley, III, t/a Home Improvement (Hundley) on May 9, 2003. The following individuals participated at the conference: Garland Gordon, Complainant; Jennifer Kazzie, Staff Member; and Michael D. Redifer, presiding Board Member. Neither Hundley, nor anyone on his behalf, appeared at the IFF.

Background

On or about April 15, 2002, Garland Gordon (Gordon) entered into a contract with "Quality First Home Improvement," in the amount of \$2,000, to replace rotten wood in front and in back of Gordon's home, repair loose steps, paint all replaced and existing wood, and re-caulk all windows at 15641 Plain Dealing Place, Manassas, Virginia. Leon Hundley III signed the contract for "Quality First Home Improvement."

The licensing records of the Board of Contractors on July 3, 2002, revealed Leon A. Hundley III (Hundley), t/a Home Improvement, was issued Class C Contractor's license number 2705066195 on November 19, 2001.

Summation of Facts

1. Hundley solicited Gordon by leaving a business card with the name "Quality First Home Improvement" at Gordon's door. The contract used by Hundley reflected the name "Quality First Home Improvement."

2. The contract used by Hundley in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (a) when work is to begin and the estimated completion date, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) a disclosure of the cancellation rights of the parties, and (h) contractor's name, address, license number, expiration date, class of license, and classifications or specialty service.

3. The contract specified the following payment schedule: \$1,000.00 for materials and \$1,000.00 upon completion. On or about April 15, 2002, Gordon paid Hundley \$1,000.00 by check, which Hundley accepted and cashed.

4. On June 3, 2002, Hundley showed up and worked for approximately one hour. After June 3, 2002, Hundley failed to return to perform work. On or about June 6, 2002, Gordon called Hundley and advised him that he no longer wanted Hundley to do the job and to come get his materials, which was 15-20 slats for steps valued at \$30.00. Hundley refused to get his materials and has failed to refund Gordon money received for work not performed.

5. On or about September 9, 2002, Investigator Terri Taylor, the Board's Agent, sent an allegation letter to Hundley, requesting a written response and supporting documents, including receipts for the materials purchased, to the complaint received by the Board. The Board's Agent requested the documents be received by September 20, 2002. As of October 21, 2002, the Board's Agent has not received a response from Hundley.

6. During the IFF, Gordon testified that he had obtained a judgment against Hundley for the amount owed.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-230(A) (Effective September 1, 2001)

Hundley's failure to report a name change, in writing, to the Board within 30 days of the change, is a violation of Board Regulation 18 VAC 50-22-230(A) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation.

Count 2: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Hundley's failure to make use of a legible written contract which contains all provisions in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation.

Count 3: 18 VAC 50-22-260(B)(15) (Effective September 1, 2001)

Hundley's intentional and unjustified failure to complete work contracted for is a violation of Board Regulation 18 VAC 50-22-260(B)(15) (Effective September 1, 2001). I recommend a monetary penalty of \$1,500.00 be imposed for the violation of the regulation.

Count 4: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

Hundley's failure to refund money received for work not performed is a violation of Board Regulation 18 VAC 50-22-260(B)(16) (Effective September 1, 2001). I recommend a monetary penalty of \$2,500.00 and license revocation be imposed for the violation of the regulation.

Count 5: 18 VAC 50-22-260(B)(13) (Effective September 1, 2001)

Hundley's failure to respond to the Board's agent seeking information in the investigation of a complaint filed with the Board is a violation of Board Regulation 18 VAC 50-22-260(B)(13) (Effective September 1, 2001). I recommend a monetary penalty of \$500.00 be imposed for the violation of the regulation.

By:

Michael D. Redifer
Presiding IFF Board Member
Board for Contractors
Date: June 10, 2003

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

**RE: SUNDECKS OF RICHMOND, INC.
LICENSE NUMBER 2705-010218**

FILE NUMBER: 2002-03571

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on June 10, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Sundecks of Richmond, Inc. on April 7, 2003. The following individuals participated at the conference: Jim Davidson, Respondent; Paul T. Buckwalter, Esquire, Attorney for Respondent; Michael Lamm, Witness; Herta Korb, Complainant; Sonja Korb, Witness; Jennifer Kazzie, Staff Member; and Michael D. Redifer, presiding Board Member.

Background

On or about December, 2001, Herta Korb (Korb) entered into a contract with Sundecks of Richmond Inc., in the amount of \$46,250.00, to perform construction at Korb's residence at 4702 Thornhurst St., Richmond, Virginia. The construction included, but was not limited to, the installation of a two-ton heat pump system for the second floor and use existing heat pump for the first floor, wire rooms per code and per customer's request, modify existing plumbing in current bathroom, and supply new plumbing in the new bathroom and install new fixtures.

The contract specified payments were as follows: 1/3 when work begins, 1/3 after building at the house is framed, sided, and roofed, and balance (less 5% for punch-out) after work completed. The contract also specified work to begin by December 1, 2001 and completed by January 21, 2002.

By April 12, 2002, Korb paid a total of \$43,937.50 for the job. This amounted to the total amount due in the contract less 5% for punch out items.

Summation of Facts

1. The contract used by Sundecks of Richmond Inc. failed to contain all the minimum provisions as required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (c) listing of specified materials and work to be performed, which is specifically requested by the consumer, (d) "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance, (f) disclosure of the cancellation rights of the parties, (h) contractor's name, address, expiration date, class of license/certificate, and classification or specialty services, and (i) statement providing that any modification to the contract, which changed the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.
2. During the IFF, Davidson testified that he has revised his contract to include all required provisions.
3. On or about January 2002, Kane Plumbing Co., Inc. installed a heat pump for the upstairs at Korb's house. Hicks Plumbing and Heating also performed work at Korb's house. Both sub-contractors performed services/construction at the house as defined in the contract. As of August 2002, Sundecks of Richmond, Inc. failed to pay Kane Plumbing Co., Inc. and pay in full Hicks Plumbing and Heating.
4. During the IFF, Davidson submitted evidence that he had given a credit to Korb for the upstairs HVAC contained in the contract in the amount of \$4,600.00.
5. Sundecks of Richmond, Inc. installed tile in Korb's bathroom at a cost of \$800.00 and upgraded the electrical service at a cost of \$1,000.00. Sundecks of Richmond, Inc. failed to obtain written change orders, signed by all the parties, for this additional work performed and additional costs not in the original contract.
6. The contract specified a completion date of January 31, 2002. Sundecks of Richmond, Inc. completed the work at the end of March, 2002. Sundecks of Richmond, Inc. failed to obtain a written change order, signed by all the parties, for this extension to the completion date.
7. During the IFF, Buckwalter testified that the job was completed on April 5, 2002.

Conclusion and Recommendation

Count 1: 18 VAC 50-22-260(B)(9) (Effective September 1, 2001)

Sundecks of Richmond, Inc.'s failure to make use of a legible written contract that contains all provisions specified in the regulation is a violation of Board Regulation 18 VAC 50-22-260(B)(9) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend that the Designated Employee (J. Davidson) successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the final order.

Count 2: 18 VAC 50-22-260(B)(16) (Effective September 1, 2001)

I recommend that Count 2 be closed with a finding of no violation.

Count 3: 18 VAC 50-22-260(B)(31) (Effective September 1, 2001)

Sundecks of Richmond, Inc.'s failure to obtain written change orders, signed by all the parties, for additional work performed, additional costs not in the original contract and for the extension to the completion date is a violation of Board Regulation 18 VAC 50-22-260(B)(31) (Effective September 1, 2001). I recommend a monetary penalty of \$250.00 be imposed for the violation of the regulation. In addition, I recommend that the Designated Employee (J. Davidson) successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of the final order.

By:

Michael D. Redifer
Presiding IFF Board Member
Board for Contractors
Date: June 10, 2003

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 2705-010218 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Michael D. Redifer
2. Title: Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on June 10, 2003
5. Nature of Personal Interest Affected by Transaction: _____

NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

UBICA, URMIA, ICC, NFPA, IAET

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Signature

Date

6-10-03